GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Minorities Welfare Department- Andhra Pradesh State Waqf Board –Sri K.K. Sherwani appointed as Member of Andhra Pradesh State Waqf Board under Section 14 (3) of the Waqf Act, 1995 – Commission of grave irregularities - Action u/s.20(1) (b) of Waqf Act, 1995 - Show Cause Notice issued - Removal – Orders issued.

MINORITIES WELFARE (IDM) DEPARTMENT

G.O.Ms.No.30 **Dated:13.08.2022.**

Read the following:-

1. G.O.Ms.No.10, Minorities Welfare (IDM) Department, dt: 13-03-2018.
2. Orders of the Hon'ble High Court, dt:09.02.2022 in W.P.No.795 of 2022.
3. Complaint Petition of the President, Muslim Rights and Welfare, Vijayawada, Krishna District, dt:16.05.2022.
4. Complaint Petition of the President, Muslim United Front, Vijayawada, Krishna District, dt:16-5-2022.
5. Complaint Petition received from Sri. Khaleel Ahmed dt:30.05.2022.
6. Govt.Memo.No.346415/IDM/A1/2016, dt:03-07- 2019.
7. Govt.Memo.No.1741160/IDM/A1/2022, dt:13.07.2022.

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ORDER

In the first read above, Government have constituted the Waqf Board wherein Sri K.K. Sherwani was appointed as Member of the Board under Section 14(3) of the Waqf Act, 1995 nominated for the category u/s 14(1)(b)(iii).

2. In the second read above, the Hon'ble High Court of Andhra Pradesh in its orders dated 09-02-2022 in W.P.No.795 of 2022 passed that one Mr. Habeebur Rahman of Vijayawada has filed the Writ Petition alleging the inaction on the part of the Principal Secretary, Minorities Welfare Department and also the inaction of the Chief Executive Officer, A.P. State Waqf Board on the irregularities pointed out by the Government through its Show Cause Notice dated 03-07-2019 preceding the supersession proceedings issued by the Government vide G.O.Ms.No.38 Minorities Welfare (IDM) Department dated 15-7-2019 and G.O.Ms.No.39 Minorities Welfare (IDM) Department dated 15-7-2019. In Para 5 of the Writ Affidavit, it is alleged that a fresh Show Cause Notice was not issued to the then Board Members as a follow-up action by the Principal Secretary, Minorities Welfare Department when commission of grave irregularities is pointed out in the Show Cause Notice dated 3-7-2019. The Petitioner in the said Writ Petition also alleged that the matter should have been referred to Anti-Corruption Bureau against the members of the Waqf Board who were continuing at the time of issuance of Show Cause Notice dated 3-7-2019. The Petitioner therein at Para 9 of his Writ Affidavit sought for the transfer of the investigation to Central Bureau of Investigation. The Petitioner therein namely Habeebur Rahman had submitted a representation dated 30-9-2021 to the Chief Secretary of the Government requesting to take appropriate action. On the ground that such representation is not considered and appropriate order is not passed, the aforesaid Writ Petition was filed before the Hon'ble High Court. The Hon'ble High Court by its Order dated 9-2-2022 disposed off the Writ Petition directing the Chief Secretary to Government to consider the representation and to pass appropriate order in accordance with law within 8 weeks from the date of receipt of the copy of the order. Accordingly, in obedience to the Hon'ble High Court orders dt.09.02.2022 in W.P.No.795/2022 while disposing the Petitioners representation dt.30.9.2021 issued Govt.Lr.No.346415/IDM/ A1/2016, dt.11.3.2022 stating that on the ground of grave irregularities committed by the members of Board has been considered and decided to forward the case to entrust to the APCBCID.

3. In the third read above, in the complaint made by Muslim Rights and Welfare Organisation through its President, certain allegations are made against the nominated member Sri. K. K. Sherwani wherein it was alleged that Sri. K. K. Sherwani is causing

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hindrance and disruption in the administration of the A.P. State Waqf Board and is causing loss to the Board. It is said that he is frequently filing number of Writ Petitions before the Hon'ble High Court and is acting adverse to the interest of State Waqf Board. It is also said that under the category of Bar Council Member, Sri K. K.Sherwani cannot be nominated as there is no record to show that he has filed number of cases to claim status as a Senior Advocate and that he cannot be called as a Designated Senior Advocate.

4. In the fourth read above, the Muslim United Front represented by Sri Habeebur Rahman has submitted a representation on 16-5-2022 enclosing the copy of the orders dated:9-2-2022 in W.P.No.795 of 2022, requested action for CBCID investigation and for removal of Sri. K. K. Sherwani from being a nominated member to the A.P. State Waqf Board.

5. In the fifth read above, Sri Khaleel Ahmed has submitted a Complaint dated 30-05-2022 to the Principal Secretary, complaining that Sri. K.K. Sherwani is not a Senior Advocate and he has caused huge monetary loss to the Board by resorting to filing number of Writ Petitions before the Hon'ble High Court.

6. In the sixth read above, the contents of Show Cause Notice dt.03.07.2019 noted irregularities as follows:

> In the case of finalization of bids by the Waqf Board for giving the land on lease for construction of multi-stored Commercial complex in the vacant land of 3,400 Sq. Yards of Jamia Mosque, Near Kaleswar Rao Market, Vijayawada for a period of thirty (30) years in favour of Director, C.B.Agros & Shopping Malls Pvt. Limited, Vijayawada vide their tenancy proceeding of CEO, F.No.17/DM/Rent/KST/2015/Z-V, dt.20-07-2018, the lease was given for a paltry sum of Rs.5,64,570 pm. This led to a lot of agitations against the decision of the A.P.State Waqf Board by the local people. Further, one of the Board Members Smt. Parvin Taj vide her representation dated 20.07.2018 has also complained that the Tender agreement and terms were not discussed in the meeting and alleged that legal opinion was also not obtained. She has also specified that other Board Members have also given their consent to her for placing the matter before the Board once again. On complaints received against the lease and adverse news Items published in Newspapers, the Govt, vide Memo. dt.27.09.2018 asked the CEO, APSWB to inform the tender process followed while finalizing the lease and requested a detailed report along with connected records. Further, Govt. vide Memo. dt.26.09.2018 placed the matter under abeyance till a decision is taken by the Government after verifying their record and the prevailing market values etc.
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> On receipt of report and records from the CEO, AP Wagf Board and on verification it is observed that only 3 Bidders have participated and complaints that they are from the same family. The Bid amounts are Rs.18.25, 18.15 and 18.45 per Sq. Feet. The three DD's are obtained from the same Branch of HDFC Bank in a series at a time for filing along with the tender papers comprising of series Nos 059639, 059640 and 059641, dt. 17.07.2018. It leads to suspicion that the Waqf Board is colluded with the bidders and is not protecting their properties and helping the private persons in for their wrongful gain at the cost of the Board which attracts Sec.24 of IPC 420. It is prima facie evident that there is an apparent collusion of the Board Members with private persons at the cost of the Board and proper scrutiny has not been done while finalizing the lease and caused financial loss to the Waqf. It is also observed that the tender procedure was not followed in a transparent manner with an intention to help M/s Chandana Brothers. Therefore, it is evident that very valuable land has been proposed

at a very less price i.e. Rs.5,64,570 p.m. compared to the prevailing market prices. Finally, it has been decided to cancel the lease Proceedings Issued by the A.P.Waqf Board and accordingly directed the CEO, APSWB vide: Memo. Dated:20.05.2019 to cancel the lease Proceedings dt:20-07-2018.

The representation of Sri Rehman, President, Muslim United Front, Vijayawada, dt. Nil received through the O/o the CEO, Elections-vide their U.O. dated 21-05-2019 stating that the Board has issued several proceedings regarding appointment of Mutawallies etc., even when Election Code is in force and without conducting any Board meeting as if the resolutions have been passed. Further, it is also alleged that the Board has only 4 agenda Items in its meeting held on 02-02-2019. But, with ill intentions and for their convenience, several agenda Items were inserted as Additional Items and issued Proceedings with ante date. The said illegal activities reflect the misconduct and violation of provisions of Act by the Board Members.

One Sri Mujafar Balg in his representations dated 22.04.2019 and 01.05.2019 complained that the Board has issued Proceedings appointing Sri Shalk Khaja as Mutawalll and Sri Shalk Mustafa as Joint. Mutawall for the Waqf Institution Darga Hajarat. Syed Mazil Baba, Nallakunta, Gollapudi Village of Krishna District: without following due procedure and Rules. It was mentioned that the applicant has filed CRP.No.46/2019 before the Hon'ble High Court of Andhra Pradesh praying not to extend the term of the respondent i.e. Mutawalli and Joint Mutawalll of the subject Institution. The Hon'ble High Court while disposing the case on 15-03-2019 has given liberty to the petitioner to raise objections before the appropriate authority i.e. Waqf Board. The applicant stated that he has received the copy of the order on 15-04-2019 from the Hon'ble High Court and on the very same day he has filed objections in pursuance of the orders of the Hon'ble Court and on 22.04.2019 a reminder was also issued. It is alleged that the Board has moved a circular agenda as if a meeting has been conducted on 12.04.2019 which are ante dated proceedings in order to have illegal gains though the Election Code is in force. Moreover, it is emphasised that a conspiracy has been committed by the Board Members to favour the Mutawalll of the subject Institution who is one among the Board Members by passing anti dated, order based on the circular agenda.

With the above, it is construed that the Board has violated the provisions of Act and issued Proceeding to favour the existing Board Member though the Election Code Is In force.

The Aawaz Rastra Committee, Vijayawada and Muslim United Front, Vijayawada and some other individuals were brought to notice of the Government that a Sult O.A. No.42/2013 on the file of A.P.Waqf Tribunal at Hyderabad disposed against the Waqf Board on 12.03.2019. The Schedule of property covered is an extent of Ac.39.16 Cents in Survey No.203/2 located in Nidamanuru Village of Vijayawada Mandal worth about Rs.400 Crores. Because of failure, negligence and non-persuasion by the Board in not engaging Senior Counsel and not defending the Board properly, the Board thereby failed to protect the interest of Waqf. There is a willful negligence and default on the part of the Board in losing the valuable Waqf Property at Waqf Tribunal. Even after delivery of the Judgement the Waqf Board kept the file and matter pending for long time without taking steps for filling Appeal before the Hon'ble High Court of A.P. by way of CRP Immediately. Only upon the intervention of the Government and different organizations from the Districts, finally the CRP is filed before the High Court which exposes the collusion of Board Members with unlawful

claimants and failure of the Board in protecting the valuable Waqf property as well of Waqf properties in several Districts.

Further, it has brought to notice that after bifurcation of the Hon'ble High Court, the cases relating to Andhra area represented by the advocates of Telangana at High Court at Hyderabad have returned the files as they are unable to shift their offices to Vijayawada. Such returned files were kept pending without entrustment to standing counsel at Vijayawada for a long time and failed to appoint new Standing Counsels in A.P.High Court at Vijayawada to represent these cases on behalf of A.P.State Waqf Board. This can be treated that the Board is unable to perform the duty imposed on it under Waqf Act due to which cases belonging to valuable Waqf property worth corers of rupees have become time barred on expiry of limitation for filing of Appeals. Parawise remarks are not furnished and counters are not filed. The following are two examples:

(1) It is brought to the notice of the Govt. that the Waqf Board has filed a suit OS No.202/88 before the Prl, Senior Civil Judge Court, Nellore against the management of New Talkies for recovery of Waqf Property to an extent of about Ac.1.00 worth in crores. The suit was decreed in favour of the Waqf Board on 29.04.1997. Against the orders of the lower court, the management of the New Talkies filed A.S.No.638/1997 before Hon'ble Court of A.P. The said appeal was allowed by the Hon'ble High Court on 22.09.2017. In order to protect and recover the valuable Waqf property, the Board has to file the review appeal, before the Hon'ble High Court. Unfortunately the representation of the Review is pending for necessary action causing huge loss for favouring the illegal purchasers.

(2) It is also brought to the notice of the Government that, one Mr. R.L.Daruwala, R/o. Visakhapatnam and 3 others filed as sult OS No.127/2013 against the Waqf Board and Government in the A.P. Waqf Tribunal, Hyderabad with a pray to pass an award declaring that they are entitled for the share of compensation in respect of the lands admeasuring 2200 AC situated in Sy.No.212 to 216 (old) corresponding new Sy.Nbs.491 to 539 of Dvada Village of Visakhapatnam District at the @ 35% of the amount. The suit was dismissed for a default on 13.02.2019.

However, It is also mentioned that the claim of the petitioners were rejected by the then Waqf authorities in light of the judgement of Hon'ble Supreme Court and as well as the Government orders. Without proper examining and verifying the relevant records, the Board has passed a resolution in favour of applicants without examining the legal proceedings and written statement averments filed by the then CEO, A.P. State Waqf Board, with the intention to help the petitioner for wrongful gains causing financial loss to the Waqf Board. The matter has been published in various newspapers. Thus It is construed that the Board has acted against the provisions of Act with malafide intentions causing financial loss.

Therefore, the Member of APSWB has acted against the interest of the Waqf Board.

7. In the light of the contents of Show Cause Notice dated:03-07-2019 and the orders dated:9-2-2022 passed in W.P.No.795 of 2022 and also representations received in this regard, the Government has decided to initiate action by issue of Show Cause Notice to Sri. K. K. Sherwani for taking appropriate action on the allegations made against him.

8. In the seventh read above, a Show Cause Notice was issued to Sri. K.K. Sherwani, Member, Andhra Pradesh State Waqf Board as to why appropriate action shall not be taken against him for the allegations made in the complaints, he is acting prejudicial to

the interests of auqaf and therefore, he is hereby called upon to submit his explanation within 15 days from the date of receipt of this Show Cause Notice. If no explanation is received within the above stipulated time, it would be construed that he has no explanation to offer on those allegations and appropriate action would be taken against him in terms of provisions of Waqf Act soon thereafter.

9. The Show Cause Notice issued in the seventh read above has been served to Sri K.K. Sherwani, Member, APSWB on 25.07.2022 and obtained dated acknowledgment and he has not submitted his explanation and he has not submitted any documents to disprove the contents of Show Cause Notice dt.13.7.2022 within the stipulated time i.e. 15 days i.e. on or before 09.08.2022.

10. The Government have examined the matter keeping in view of the provision made under Section 20(1)(b) of Waqf Act, 1995 and hereby remove Sri K.K. Sherwani, as Member of Andhra Pradesh State Waqf Board, Vijayawada, with immediate effect.

11. Accordingly, the following notification shall be published in the Extra-Ordinary issue of Andhra Pradesh Gazette.

NOTIFICATION

In exercise of the powers conferred under Section 20(1)(b) of Waqf Act, 1995, Government hereby removes Sri K.K. Sherwani as Member of Andhra Pradesh State Waqf Board, Vijayawada, with immediate effect.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A MD IMTIAZ
SECRETARY TO GOVERNMENT

To
The Commissioner of Printing, Stationery and Stores Purchase Department,
Mutyalampadu, Vijayawada, Krishna District.
(with a request to supply 25 copies of Gazette to Government)
The Chief Executive Officer, Andhra Pradesh State Waqf Board, Vijayawada.
Sri K.K. Sherwani, Member, Andhra Pradesh State Waqf Board, Vijayawada
(through the Chief Executive Officer, A.P.State Waqf Board, Vijayawada)

Copy to:

The Secretary to Governor, Raj Bhavan, Vijayawada.
The Secretary, AP State Legislature, Legislature Secretariat, Velagapudi.
The Law Department. The Advocate General, AP High Court, Nelapadu, Guntur.
The Addl. Advocate General, AP High Court, Nelapadu, Guntur.
All the Departments of the Secretariat.
All the District Collectors.
The Accountant General, Vijayawada.
The Pay & Accounts Officer, AP, Ibrahimpatnam, Vijayawada.
The Registrar, AP High Court, Nelapadu, Guntur district.
The Commissioner, I&PR, AP, Vijayawada
(with a request to publish in all popular daily News Papers).
The Director, Minorities Welfare, AP. Tadepalli, Guntur.
The Secretary to Government of India, Ministry of Minorities Affairs, New Delhi.
The OSD to Secretary to Chief Minister, Andhra Pradesh.
PS to the Deputy Chief Minister (M.W), AP Secretariat, Velagapudi.
OSD to Secretary to Government, Minorities Welfare Department, A.P. Secretariat.
✓Sf/Sc.

//FORWARDED::BY ORDER//

P.N.V.Lakshmi
SECTION OFFICER